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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/905,719      | 05/16/2002  | Thomas R. Ricono     | P24624 USA          | 2560             |

23307 7590 07/29/2003

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EXAMINER

SELF, SHELLEY M

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3725

DATE MAILED: 07/29/2003

8

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                               |                                                                     |  |
|------------------------------|-------------------------------|---------------------------------------------------------------------|--|
| <b>Office Action Summary</b> | Application No.<br>09/905,719 | Applicant(s)<br>RICONO ET AL. <span style="float: right;">CS</span> |  |
|                              | Examiner<br>Shelley Self      | Art Unit<br>3725                                                    |  |

-- Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 June 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 22-42, 45 and 46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 35-41 and 46 is/are allowed.
- 6) ☒ Claim(s) 22, 23, 26, 42 and 45 is/are rejected.
- 7) ☒ Claim(s) 24, 25 and 27-34 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All   b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- |                                                                                             |                                                                             |
|---------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                            | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____   |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)        | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Response to Amendment*

The amendment filed on June 24, 2003 under 37 CFR 1.131 has been considered and an action on the merits follows.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 22, 23, 26 and 45 is rejected under 35 U.S.C. 102(e) as being anticipated by Chang (6,427,343). With regard to claim 22 and 45, Chang discloses pencil sharpener comprising: a first and second longitudinally elongated external shells (fig. 2) having internal ribs (19, 80) defining first and second support surfaces, a sharpening sub-assembly (20, 21, 22, 23), wherein said first and second pluralities of support surfaces cooperate with each other to laterally position and fixedly retain said sharpening sub-assembly within said shells.

With regard to claim 23, Chang discloses the first and second pluralities of support surfaces serve as the sole means of mounting said sharpening-subassembly in said compartment.

With regard to claim 26, Chang does not disclose an electric motor

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***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Change (6,427,343). Change discloses a manufacturing a pencil sharpener comprising: providing internal sharpener components (20,21,22,23), providing a longitudinally elongated first and second shells having internal ribs to be capable of laterally supporting said sharpener components, such that said sharpener components are laterally supported by said internal ribs (19) and mating said second external shell to said first external shell to complete said housing and fix said internal components therein. Change does not disclose an electric motor for driving a cutter assembly. It would have been obvious at the time of the invention to one having ordinary skill in the art to replace Chang's manual/mechanical cutter means with an automatic/electric means; since it has been held that broadly providing a mechanical or automatic means to replace manual activity which has accomplished the same result involves only routine skill in the art.

***Allowable Subject Matter***

Claims 35-41 and 46 are allowed.

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Claims 24, 25, 27-34 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Response to Arguments***

Applicant's arguments have been carefully considered. Regarding Applicant's arguments that the prior art reference(s) fail to disclose/teach *"support surfaces cooperate with each other to laterally position and fixedly retain said sharpening sub-assembly within said shells"* and that *"it is the internal surfaces of the housing halves, if anything of Chang's...that perform any lateral positioning function"*, this argument is not found persuasive. Chang clearly discloses that the internal ribs (19) make up the internal surfaces of the halves and it is with these ribs that the sharpening sub-assembly is laterally positioned within the halves as it relates to the sides of each external shell.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shelley Self whose telephone number is (703) 305-5299. The examiner can normally be reached Mon-Fri from 8:30am to 5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, Allen Ostrager can be reached at (703) 308-3136. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3579 for regular and After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

SSelf  
July 28, 2003

A handwritten signature in black ink, appearing to read 'A. Ostrager', with a long horizontal stroke extending to the right.

**ALLEN OSTRAGER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700**